

PROCEDURAL BACKGROUND

1. On August 6, 2024, Plaintiff filed this action alleging antitrust claims under Section 1 of the Sherman Antitrust Act against Defendants. (Doc. No. 1). On November 18, 2024, Plaintiff filed its First Amended Complaint, which among other things, added Twitch Interactive Inc. as a defendant. (Doc. No. 62). On February 6, 2025, the Court granted Plaintiff leave to file a Second Amended Complaint. (Doc. No. 76). The same day, Plaintiff filed its Second Amended Complaint and added additional defendants, naming a total of sixteen defendants. (Doc. No. 77). Several of the newly added defendants are foreign companies and, as of yet, have not been served or entered an appearance. On February 27, 2025, the parties filed a Joint Motion to Implement Joint Briefing Schedule to establish the deadline to answer or otherwise respond to Plaintiff's Second Amended Complaint for all defendants that are "either: (1) served with the Second Amended Complaint by April 23, 2025; or (2) requested by Plaintiff to waive[] service by March 15, 2025, and [that] have agreed to waive service." (Doc. No. 91). On March 4, 2025, the Court granted the Joint Motion to Implement Briefing Schedule and entered an Order that the parties subject to the schedule answer or otherwise respond by May 14, 2025, with Plaintiff's response due by July 14, 2025, and any reply briefs due by September 12, 2025. (Doc. No. 92).

REQUESTED RELIEF

2. Because of the significance and complexity of the matters at issue, it is more efficient for the Court and the Parties to submit a single, consolidated Rule 12(b)(6) motion and brief on behalf of all Defendants.¹ While Local Rule 7.2 provides a general briefing limitation of

¹ In addition to this single 12(b)(6) motion and brief, Defendants anticipate that six of the sixteen defendants who have been named in Plaintiff's Second Amended Complaint will file individualized Rule 12 motions challenging personal jurisdiction and venue. Those that file such motions will limit these motions to twenty pages, five pages below the per-brief limit of Local Rule 7.2. See *Nationwide Bi-Weekly Admin., Inc. v. Belo Corp.*, 512 F.3d 137, 141 (5th Cir. 2007)

twenty-five pages, if Defendants (and those that may become subject to the Court’s March 4, 2025 Order) brief the 12(b)(6) issues in a single submission, then they require additional pages to ensure both the joint and individualized issues are fully presented to the Court. After conferring with Plaintiff, Defendants respectfully request the Court enlarge the page limit for the brief in support of Defendants’ 12(b)(6) motion to fifty pages. Plaintiff is unopposed to the requested additional pages.

3. This relief will not prejudice any party and will benefit the Court. Rather than reviewing and ruling on up to fifteen² Rule 12(b)(6) motions (with up to an additional 375 pages of briefing pending successful service on the remaining entities), the Defendants’ proposal limits submissions to a single fifty-page Rule 12(b)(6) brief.³

WHEREFORE, the Defendants respectfully request the motion be granted and the Court enter an order permitting Defendants (including all new defendants who are subject to the current briefing schedule either because they were served with the Second Amended Complaint on or

(“Nationwide argues that Belo failed to consolidate its personal jurisdiction and statute of limitations defenses in the same Rule 12(b) motion. However, Rule 12(g) did not require consolidation here because Rule 12(h)(2) explicitly excepts from the consolidation requirement motions based on the defense of failure to state a claim.”); *Doe v. Columbia-Brazoria Indep. Sch. Dist. By & through Bd. of Trustees*, 855 F.3d 681, 686 (5th Cir. 2017) (“We have previously held that Rule 12(g) does not require consolidation of defenses raised in a second 12(b)(6) motion.”); *see also Jones v. Greninger*, 188 F.3d 322, 324, 327 n.4 (5th Cir. 1999). Recognizing the defendant-specific and fact-specific nature of these arguments, consolidation of all jurisdictional and venue facts and arguments into one brief would not result in more efficient briefing. *See Allstate Ins. Co. v. Interline Brands, Inc.*, 997 F. Supp. 2d 501, 507 n.4 (N.D. Tex 2014) (Boyle, J.) (explaining how the Court gave “no consideration” to facts about defendant’s parent entity in context of jurisdictional motion, as those facts about a “separate and distinct corporate entit[y]” have no significance in the jurisdictional analysis (citation omitted)).

² While sixteen named Defendants remain in the case, Plaintiff and Twitch Interactive, Inc. have requested a stay as to Twitch pending resolution of a settlement agreement. (Doc. No. 93).

³ At this time, the Court’s deadline for new parties to be served and subject to the current briefing schedule has yet to pass. As such, it is unclear how many defendants would file a responsive pleading by the May 14, 2025, deadline.

before April 23, 2025, or they waived service of the Second Amended Complaint on or before March 15, 2025) to file a consolidated Rule 12(b)(6) motion with a brief in support of up to fifty pages.

Dated: April 9, 2025

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CERTIFICATE OF CONFERENCE

I hereby certify that on April 7, 2025, I conferred with counsel for X Corp. who stated Plaintiff is unopposed to the relief sought in this motion.

/s/ Jason M. Powers

CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel and parties of record registered to receive such notices.

/s/ C. Jason Fenton